Supreme Court, U.S.
FILED
MAY 7 1996
CLERK

No. 95-137

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1995

CHARLES L. WILLIAMS, *et al.*,

Petitioners,

vs.

NATIONAL BASKETBALL ASSOCIATION, *et al.*,

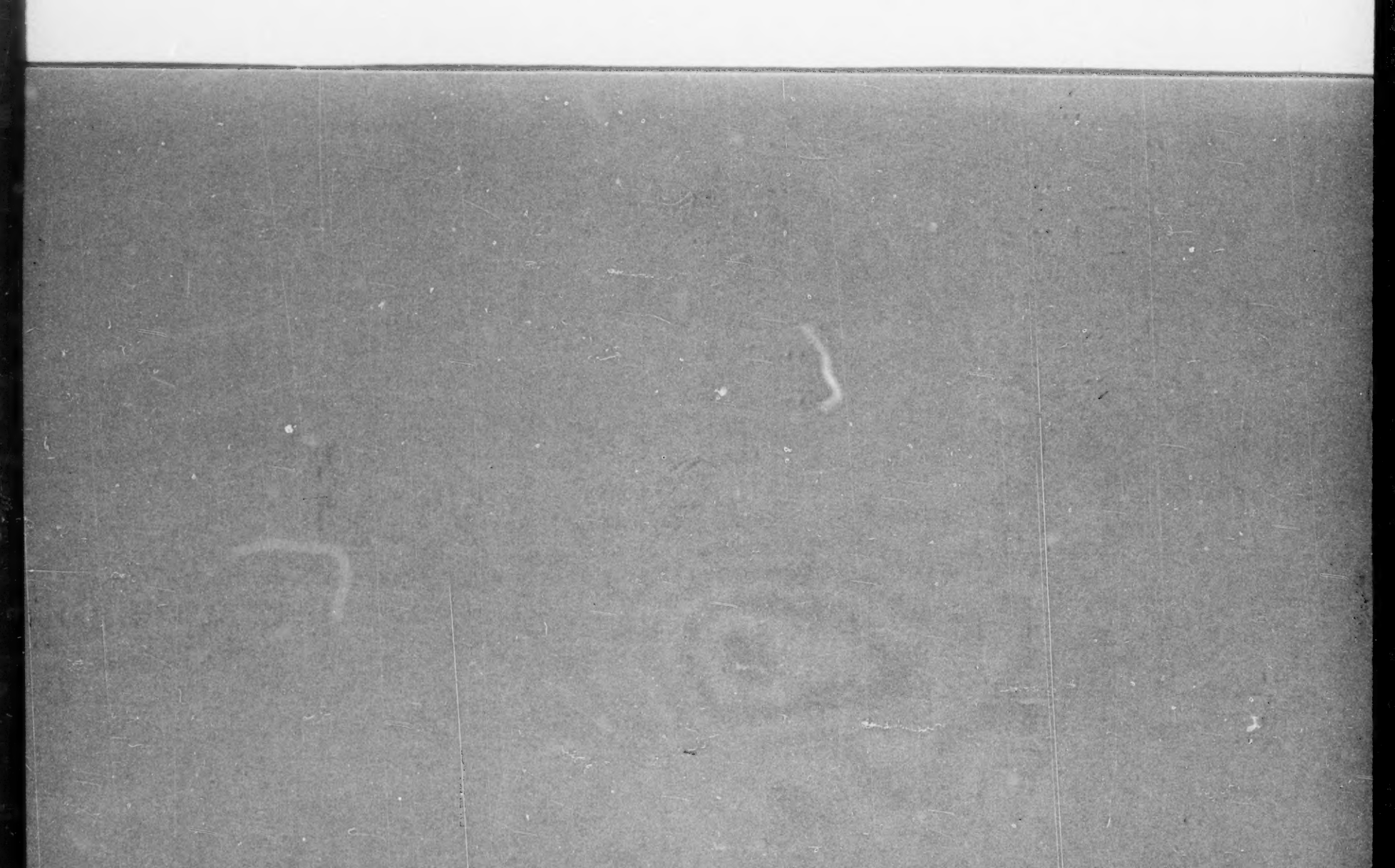
Respondents.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

MEMORANDUM OF RESPONDENTS

HOWARD L. GANZ
PROSKAUER ROSE GOETZ &
MENDELSOHN LLP
1585 Broadway
New York, New York 10036
(212) 969-3000

ATTORNEYS FOR RESPONDENTS



No. 95-137

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1995

CHARLES L. WILLIAMS, *et al.*,

Petitioners,

vs.

NATIONAL BASKETBALL ASSOCIATION, *et al.*,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

MEMORANDUM OF RESPONDENTS

The issues presented by the petition for a writ of certiorari in the above-captioned matter may well be resolved or rendered moot by this Court's decision in *Brown* v. *Pro Football, Inc.*, No. 95-388, a case that was argued on March 27, 1996 and is now *sub judice*. In *Brown*, petitioners have expressly urged the Court to reverse the decision there under review and to adopt a legal standard that could overturn the decision rendered below. *See* Brief for Petitioners, No. 95-388. Respondents here have urged the Court to affirm the decision under review in *Brown*, a course that would require

affirmance of the decision below. *See* Brief of the National Basketball Association as *Amicus Curiae* in Support of Respondents, No. 95-388.

In light of the pendency and status of *Brown*, respondents do not intend to respond on the merits, if they are obligated to do so at the present time, to the petition for a writ of certiorari.

For the reasons set forth below, however, respondents respectfully request that the Court defer its consideration of the petition.

In previous submissions to the Court, respondents have requested extensions of time to respond to the petition for a writ of certiorari on two grounds:

(1) That the petition may be withdrawn as a consequence of an understanding reached in connection with a new collective bargaining agreement entered into between the National Basketball Association ("NBA") and the National Basketball Players Association ("NBPA"), the exclusive collective bargaining representative of NBA players (including the petitioners herein), providing for withdrawal of the petition when the precise language of the new collective bargaining agreement is finalized and that agreement is formally executed. Although disputes have recently arisen between the NBA and the NBPA with respect to the terms and binding effect of the agreements reached between the parties (and those disputes are currently the subject of proceedings pending before the National Labor Relations Board and the United States District Court for the District of New Jersey), withdrawal of the petition remains a possibility; and

(2) That, as noted above, the issues presented by the petition in *Williams* may well be resolved or rendered moot by this Court's decision in *Brown*.

Respondents continue to believe that the course they have previously proposed is the appropriate one. If the Court affirms the decision of the Court of Appeals for the District of Columbia Circuit in *Brown*, respondents believe that such disposition would render academic and unnecessary any response to the petition for a writ of certiorari in *Williams*. If the Court reverses *Brown*, respondents, we respectfully submit, should be afforded the opportunity to respond to the pending petition in light of the ground(s) for reversal set forth in the Court's opinion. In either event, the interests of judicial economy would best be served by the Court's deferring its consideration of that petition.

Based upon the foregoing, respondents respectfully request that the Court defer consideration of the petition for a writ of certiorari until it has rendered a decision in *Brown* v. *Pro Football, Inc.*, No. 95-388.

Respectfully submitted,

HOWARD L. GANZ
PROSKAUER ROSE GOETZ &
MENDELSOHN LLP
1585 Broadway
New York, New York 10036
(212) 969-3000

ATTORNEYS FOR RESPONDENTS